

Executive Summary – Enforcement Matter – Case No. 41639

APRIL PLAZA MARINA, INC.

RN101611200

Docket No. 2011-0803-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

April Plaza Marina, located approximately three miles west of State Highway 105 crossing of the San Jacinto River between State Highway 105 and the south shore of Lake Conroe, Montgomery County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 16, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,646

Amount Deferred for Expedited Settlement: \$2,129

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,517

Total Due to General Revenue: \$7,000

Payment Plan: 7 payments of \$1,000 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41639

APRIL PLAZA MARINA, INC.

RN101611200

Docket No. 2011-0803-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 17, 2011

Date(s) of NOE(s): April 18, 2011

Violation Information

1. Failed to provide back-up blower capacity. Specifically, only one blower was operational at the time of the investigation [30 TEX. ADMIN. CODE §§ 305.125(1), (5) and 317.4(g)(4)(B)(iii) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0011693001, Operational Requirements No. 1].

2. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, solids were not being maintained according to operator training manuals and accepted industry standards for process control. The chlorine contact basin contained approximately 30 inches of settled sludge in a seven foot water depth. The thirty minute settleable solids concentration in the aeration basin was 95%, the mixed liquor total suspended solids were 4,040 milligrams per liter (“mg/L”), and the sludge volume index was 0.43 mg/L. Also, floating solids were noted in the clarifier and the chlorine contact basin [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0011693001, Operational Requirements No. 1].

3. Failed to monitor effluent samples at intervals specified in the permit. Specifically, the Respondent did not monitor biochemical oxygen demand and total suspended solids on a weekly basis during the monitoring period ending April 30, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0011693001, Monitoring and Reporting Requirements No. 1].

4. Failed to submit accurate data to the TCEQ. Specifically, the chlorine residual data documented in the operator's log and documented on the monthly discharge monitoring reports (“DMR”) did not match for the months of December 31, 2009 through May 31, 2010. The operator's log indicated the chlorine residual to be zero for each month but the DMRs showed a chlorine residual of 1.0 mg/L [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.1, and TPDES Permit No. WQ0011693001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By February 20, 2011, the Respondent repaired and installed the back-up blower.

Technical Requirements:

The Order will require the Respondent to:

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APRIL PLAZA MARINA, INC.
RN101611200
Docket No. 2011-0803-MWD-E

- a. Within 30 days, update operational guidance and conduct employee training to ensure that the TCEQ Houston Regional Office and TCEQ Enforcement Division are provided accurate data and effluent samples are analyzed at intervals specified in the permit;
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.;
- c. Within 60 days, develop and implement a solids management plan (“SMP”). The SMP shall identify the appropriate range of solids to be maintained throughout the treatment units at the Facility and outline a program of internal process control testing to monitor the efficiency of the wastewater treatment and to maintain the proper solids balance at the Facility. The SMP shall be prepared by a Texas registered professional engineer or an “A” TCEQ Certified Wastewater Operator; and
- d. Within 75 days, submit written certification demonstrating compliance with Ordering Provision c.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Ron Werner, President, APRIL PLAZA MARINA, INC., P.O. Box 907, Montgomery, Texas 77356
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	25-Apr-2011	Screening	12-May-2011	EPA Due	
	PCW	26-Oct-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	APRIL PLAZA MARINA, INC.		
Reg. Ent. Ref. No.	RN101611200		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41639	No. of Violations	4
Docket No.	2011-0803-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	26.0% Enhancement	Subtotals 2, 3, & 7	\$2,210
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Notes: Enhancement for eight months of self reported effluent violations and two NOV's for same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$260
Approx. Cost of Compliance \$3,025
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,460
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.8%	Adjustment	\$186
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with Violation Nos. 3 and 4.

Final Penalty Amount	\$10,646
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,646
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,129
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,517
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Screening Date 12-May-2011

Docket No. 2011-0803-MWD-E

PCW

Respondent APRIL PLAZA MARINA, INC.

Policy Revision 2 (September 2002)

Case ID No. 41639

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611200

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 26%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for eight months of self reported effluent violations and two NOVs for same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 26%

Screening Date 12-May-2011

Docket No. 2011-0803-MWD-E

PCW

Respondent APRIL PLAZA MARINA, INC.

Policy Revision 2 (September 2002)

Case ID No. 41639

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611200

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), (5), and 317.4(g)(4)(B)(iii) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011693001, Operational Requirements No. 1

Violation Description

Failed to provide back-up blower capacity, as documented during an investigation conducted on February 17, 2011. Specifically, only one blower was operational at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

3 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (February 17, 2011) to the compliance date (February 20, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance on February 20, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,028

This violation Final Assessed Penalty (adjusted for limits) \$1,028

Economic Benefit Worksheet

Respondent APRIL PLAZA MARINA, INC.
Case ID No. 41639
Rea. Ent. Reference No. RN101611200
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$1,600	17-Feb-2011	20-Feb-2011	0.01	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to repair and reinstall the back-up blower. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,600

TOTAL

\$1

Screening Date 12-May-2011

Docket No. 2011-0803-MWD-E

PCW

Respondent APRIL PLAZA MARINA, INC.

Policy Revision 2 (September 2002)

Case ID No. 41639

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611200

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0011693001, Operational Requirements No. 1

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, as documented during an investigation conducted on February 17, 2011. Specifically, solids were not being maintained according to operator training manuals and accepted industry standards for process control. The chlorine contact basin contained approximately 30 inches of settled sludge in a seven foot water depth. The thirty minute settleable solids concentration in the aeration basin was 95%, the mixed liquor total suspended solids was 4,040 milligrams per liter ("mg/L"), and the sludge volume index was 0.43 mg/L. Also, floating solids were noted in the clarifier and the chlorine contact basin.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix
Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

84 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (February 17, 2011) to the screening date (May 12, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$36

Violation Final Penalty Total \$1,282

This violation Final Assessed Penalty (adjusted for limits) \$1,282

Economic Benefit Worksheet

Respondent APRIL PLAZA MARINA, INC.

Case ID No. 41639

Reg. Ent. Reference No. RN101611200

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$750	17-Feb-2011	31-Jan-2012	0.95	\$36	n/a	\$36

Notes for DELAYED costs

Estimated cost to remove and properly dispose of solids from the chlorine contact basins and the clarifier and to evaluate and implement a Solids Management Plan. Date required is the investigation date. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$36

Screening Date 12-May-2011

Docket No. 2011-0803-MWD-E

PCW

Respondent APRIL PLAZA MARINA, INC.

Policy Revision 2 (September 2002)

Case ID No. 41639

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611200

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0011693001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to monitor effluent samples at intervals specified in the permit, as documented during an investigation conducted on February 17, 2011. Specifically, the Respondent did not monitor biochemical oxygen demand and total suspended solids on a weekly basis during the monitoring period ending April 30, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

84 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	X		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$641

This violation Final Assessed Penalty (adjusted for limits) \$641

Economic Benefit Worksheet

Respondent APRIL PLAZA MARINA, INC.
Case ID No. 41639
Reg. Ent. Reference No. RN101611200
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	17-Feb-2011	31-Jan-2012	0.95	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update operational guidance and employee training to ensure that all permitted parameters are sampled and analyzed at the frequency specified in the permit. Date required is the investigation date. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	1-Apr-2010	30-Apr-2010	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost that was avoided by failure to analyze the required parameters. Date required is the first day of the month the sampling was due. Final date is the last day of the month the sampling was due.

Approx. Cost of Compliance

\$275

TOTAL

\$37

Screening Date 12-May-2011
Respondent APRIL PLAZA MARINA, INC.
Case ID No. 41639
Reg. Ent. Reference No. RN101611200
Media [Statute] Water Quality
Enf. Coordinator Heather Brister
Violation Number 4

Docket No. 2011-0803-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.1, and TPDES Permit No. WQ0011693001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit accurate data to the TCEQ, as documented during an investigation conducted on February 17, 2011. Specifically, the chlorine residual data documented in the operator's log and documented on the monthly discharge monitoring reports ("DMR") did not match for the months of December 31, 2009 through May 31, 2010. The operator's log indicated the chlorine residual to be zero for each month but the DMRs showed a chlorine residual of 1.0 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6

151 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$6,000

Six monthly events are recommended for the DMRs for December 31, 2009 through May 31, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$187

Violation Final Penalty Total \$7,694

This violation Final Assessed Penalty (adjusted for limits) \$7,694

Economic Benefit Worksheet

Respondent APRIL PLAZA MARINA, INC.

Case ID No. 41639

Req. Ent. Reference No. RN101611200

Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	31-Dec-2009	31-Jan-2012	2.08	\$26	n/a	\$26
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update operational guidance and conduct employee training to ensure that accurate data is submitted to the TCEQ. Date required is the first noncompliant month. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Dec-2009	31-May-2010	1.41	\$11	\$150	\$161
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost that was avoided by failing to submit accurate data to the TCEQ. Date required is the first day the inaccurate data was documented. Final date is the last day the inaccurate data was documented.

Approx. Cost of Compliance

\$400

TOTAL

\$187

Compliance History

Customer/Respondent/Owner-Operator:	CN600703086	April Plaza Marina, Inc.	Classification: AVERAGE	Rating: 1.66
Regulated Entity:	RN101611200	APRIL PLAZA MARINA	Classification: AVERAGE	Site Rating: 0.32
ID Number(s):	WASTEWATER		PERMIT	WQ0011693001
	WASTEWATER		EPA ID	TX0056545
	WASTEWATER LICENSING		LICENSE	WQ0011693001
Location:	Located approximately three miles west of the State Highway 105 crossing of the San Jacinto River between State Highway 105 and the south side of Lake Conroe in Montgomery County, Texas			

TCEQ Region:	REGION 12 - HOUSTON
Date Compliance History Prepared:	June 30, 2011
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	June 30, 2006 to June 30, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History	
Name:	Heather Brister
Phone:	(254) 761-3034

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator: | NO |

Components (Multimedia) for the Site :

- | | |
|---|-----|
| A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. | N/A |
| B. Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. Chronic excessive emissions events. | N/A |
| D. The approval dates of investigations. (CCEDS Inv. Track. No.) | |

- | | | |
|----|------------|----------|
| 1 | 07/17/2006 | (523931) |
| 2 | 07/17/2006 | (523932) |
| 3 | 09/19/2006 | (523933) |
| 4 | 09/22/2006 | (523934) |
| 5 | 04/27/2007 | (556536) |
| 6 | 03/27/2007 | (582302) |
| 7 | 03/27/2007 | (582303) |
| 8 | 04/09/2007 | (582304) |
| 9 | 06/18/2007 | (582305) |
| 10 | 10/11/2006 | (582306) |
| 11 | 11/20/2006 | (582307) |
| 12 | 01/24/2007 | (582308) |
| 13 | 02/02/2007 | (582309) |
| 14 | 02/02/2007 | (582310) |
| 15 | 08/03/2007 | (603552) |
| 16 | 08/20/2007 | (603553) |
| 17 | 09/17/2007 | (603554) |
| 18 | 01/31/2008 | (610445) |
| 19 | 12/27/2007 | (622091) |
| 20 | 12/27/2007 | (622092) |
| 21 | 12/27/2007 | (622093) |
| 22 | 04/08/2008 | (641190) |
| 23 | 02/25/2008 | (673920) |
| 24 | 02/25/2008 | (673921) |
| 25 | 03/18/2009 | (681390) |
| 26 | 04/04/2008 | (692173) |
| 27 | 04/04/2008 | (692174) |
| 28 | 07/22/2008 | (692175) |
| 29 | 05/28/2008 | (692176) |
| 30 | 07/22/2008 | (692177) |
| 31 | 07/22/2008 | (692178) |

32	08/12/2008	(713262)
33	12/17/2008	(729379)
34	12/17/2008	(729380)
35	02/25/2009	(752581)
36	01/20/2008	(752582)
37	01/20/2009	(752583)
38	02/25/2009	(752584)
39	04/14/2010	(810261)
40	07/01/2009	(810262)
41	07/01/2009	(810263)
42	10/23/2009	(810264)
43	10/23/2009	(810265)
44	09/22/2009	(810266)
45	10/23/2009	(810267)
46	01/27/2010	(810268)
47	01/27/2010	(810269)
48	01/27/2010	(810270)
49	06/14/2010	(832834)
50	04/14/2010	(832835)
51	06/14/2010	(832836)
52	04/14/2010	(832837)
53	06/14/2010	(845228)
54	06/14/2010	(846886)
55	09/20/2010	(874600)
56	09/20/2010	(874601)
57	09/20/2010	(874602)
58	04/18/2011	(887494)
59	11/12/2010	(888647)
60	01/04/2011	(902918)
61	01/04/2011	(902919)
62	03/21/2011	(917012)
63	03/21/2011	(917013)
64	03/21/2011	(927122)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/19/2006	(460652)	CN600703086
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Description:	Failure to properly operate and maintain the chlorine contact basin.		
Date:	01/31/2008	(610445)	CN600703086
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c)		
Description:	Failure to record the Quality Assurance/Quality Control (QA/QC) analysis on the total chlorine residual.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirements, No. 1, p. 9 PERMIT		
Description:	Failure to properly operate and maintain the wastewater treatment plant.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Other Requirements, No. 4, p. 23 PERMIT		
Description:	Failure to discharge the effluent into the permitted location.		
Date:	12/31/2008	(752584)	CN600703086
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2009	(752581)	CN600703086

Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2009 (832834)	CN600703086	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2010 (874600)	CN600703086	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2010 (874601)	CN600703086	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2010 (874602)	CN600703086	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2010 (902918)	CN600703086	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2010 (902919)	CN600703086	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

- | | | |
|----|---|-----|
| F. | Environmental audits. | N/A |
| G. | Type of environmental management systems (EMSs). | N/A |
| H. | Voluntary on-site compliance assessment dates. | N/A |
| I. | Participation in a voluntary pollution reduction program. | N/A |
| J. | Early compliance. | N/A |

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
APRIL PLAZA MARINA, INC.
RN101611200**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0803-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding APRIL PLAZA MARINA, INC. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately three miles west of the State Highway 105 crossing of the San Jacinto River between State Highway 105 and the south shore of Lake Conroe in Montgomery County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 23, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Six Hundred Forty-Six Dollars (\$10,646) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Seventeen Dollars (\$1,517) of the administrative penalty and Two Thousand One Hundred Twenty-Nine Dollars (\$2,129) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Dollars (\$7,000) of the administrative penalty shall be payable in seven monthly payments of One Thousand Dollars (\$1,000) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by February 20, 2011, the Respondent repaired and installed the back-up blower.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide back-up blower capacity, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), (5) and 317.4(g)(4)(B)(iii) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011693001, Operational Requirements No. 1, as documented during an investigation conducted on February 17, 2011. Specifically, only one blower was operational at the time of the investigation.
2. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0011693001, Operational Requirements No. 1, as documented during an investigation conducted on February 17, 2011. Specifically, solids were not being maintained according to operator training manuals and accepted industry standards for process control. The chlorine contact basin contained approximately 30 inches of settled sludge in a seven foot water depth. The thirty minute settleable solids concentration in the aeration basin was 95%, the mixed liquor total suspended solids were 4,040 milligrams per liter ("mg/L"), and the sludge volume index was 0.43 mg/L. Also, floating solids were noted in the clarifier and the chlorine contact basin.
3. Failed to monitor effluent samples at intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0011693001, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on February 17, 2011. Specifically, the Respondent did not monitor biochemical oxygen demand and total suspended solids on a weekly basis during the monitoring period ending April 30, 2010.
4. Failed to submit accurate data to the TCEQ, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.1, and TPDES Permit No. WQ0011693001, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on February 17, 2011. Specifically, the chlorine residual data documented in the operator's log and documented on the monthly discharge monitoring reports ("DMR") did not match for the months of December 31, 2009 through May 31, 2010. The operator's log indicated the chlorine residual to be zero for each month but the DMRs showed a chlorine residual of 1.0 mg/L.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: APRIL PLAZA MARINA, INC., Docket No. 2011-0803-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update operational guidance and conduct employee training to ensure that the TCEQ Houston Regional Office and TCEQ Enforcement Division are provided accurate data and effluent samples are analyzed at intervals specified in the permit, in accordance with TPDES Permit No. WQ0011693001, Monitoring and Reporting Requirements No. 1;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.e below;
 - c. Within 60 days after the effective date of this Agreed Order, develop and implement a solids management plan ("SMP"). The SMP shall identify the appropriate range of solids to be maintained throughout the treatment units at the Facility and outline a program of internal process control testing to monitor the efficiency of the wastewater treatment and to maintain the proper solids balance at the Facility. The SMP shall be prepared by a Texas registered professional engineer or an "A" TCEQ Certified Wastewater Operator;
 - d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c, in accordance with Ordering Provision No. 2.e below; and
 - e. The certification of compliance required by Ordering Provision Nos. 2.b and 2.d shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

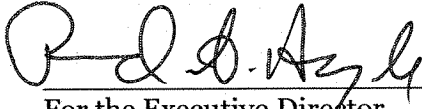
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

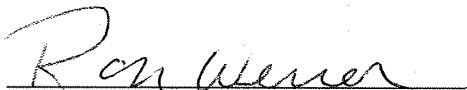
4/4/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

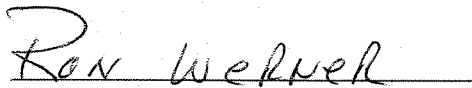
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

1/26/12
Date


Name (Printed or typed)
Authorized Representative of
APRIL PLAZA MARINA, INC.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.